

STATE OF TENNESSEE

Office of the Attorney General



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ATTORNEY GENERAL

PAUL G. SUMMERS
ATTORNEY GENERAL AND REPORTER

MAILING ADDRESS

P.O. BOX 20207
NASHVILLE, TN 37202

Reply to:
Consumer Advocate and Protection Division
Post Office Box 20207
Nashville, TN 37202

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CORDELL HULL AND JOHN SEVIER
STATE OFFICE BUILDINGS

TELEPHONE 615-741-3491
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April 21, 2003

Chairman Sara Kyle
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

RE: Petition of Chattanooga Gas Company, Nashville Gas Company, a Division of Piedmont Natural Gas Company, Inc. and United Cities Gas Company, a Division of Atmos Energy Corporation, for a Declaratory Ruling Regarding the Collectibility of the Gas Cost Portion of Uncollectible Accounts Under the Purchased Gas Adjustment ("PGA") Rules, Docket No. 03-00209

Dear Chairman Kyle:

Enclosed is an original and fourteen copies of the Office of the Attorney General's Petition to Intervene. We request that these documents be filed with the TRA in this docket. Please be advised that all parties of record have been served copies of these documents. If you have any questions, kindly contact me at (615) 741-7833. Thank you very much.

Sincerely,

A handwritten signature in black ink that reads "Vance L. Broemel".

VANCE L. BROEMEL
Assistant Attorney General

Enclosures

64421

**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

PETITION OF CHATTANOOGA GAS)	
COMPANY, NASHVILLE GAS)	
COMPANY, A DIVISION OF	)	DOCKET NO. 03-00209
PIEDMONT NATURAL GAS)	
COMPANY, INC., AND UNITED)	
CITIES GAS COMPANY, A DIVISION)	
OF ATMOS ENERGY CORPORATION)	
FOR A DECLARATORY RULING)	
REGARDING THE COLLECTIBILITY)	
OF THE GAS COST PORTION OF)	
UNCOLLECTIBLE ACCOUNTS)	
UNDER THE PURCHASED GAS)	
ADJUSTMENT ("PGA") RULES)	

PETITION TO INTERVENE

Comes Paul G. Summers, the Attorney General for the State of Tennessee, through the Consumer Advocate and Protection Division of the Office of the Attorney General (hereinafter "Consumer Advocate "), pursuant to Tenn. Code Ann. § 65-4-118(c)(2)(A), and petitions to intervene in this docket on behalf of the public interest because consumers may be adversely affected by the requested declaratory ruling that the Purchased Gas Adjustment ("PGA") rules should be interpreted so as to allow recovery of uncollectible accounts as part of the "cost of gas" under the PGA rules at 1220-4-7. For cause, the Petitioner would show as follows:

1. The Consumer Advocate Division of the Office of the Attorney General is authorized by Tenn. Code Ann. § 65-4-118 (c)(2)(A) to initiate a contested case, and participate or intervene in proceedings to represent the interests of Tennessee consumers in accordance with the Uniform Administrative Procedures Act ("UAPA").

2. Chattanooga Gas Company, Nashville Gas Company, a Division of Piedmont Natural Gas Company, Inc., and United Cities Gas Company, a Division of Atmos Energy Corporation, are companies regulated by the Tennessee Regulatory Authority ("TRA"). These companies sell natural gas to consumers in the State of Tennessee.

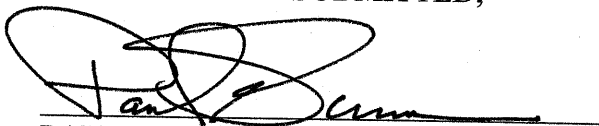
3. The present docket, Docket No. 03-00209, involves a request by these companies for a declaratory ruling that the Purchase Gas Adjustment ("PGA") rules should be interpreted so as to allow recovery of uncollectible accounts as part of the "cost of gas" under the PGA rules. The current PGA rule, however, does not allow recovery of uncollectible accounts as part of the "cost of gas." The companies' request, therefore, would be a violation of TRA rules.

4. Piedmont Gas, the parent company of Nashville Gas, recently made a similar request before the North Carolina Utilities Commission. That request was denied. A copy of the Commission's decision is attached.

5. Only by intervening and participating in this proceeding can the Consumer Advocate work to protect the public interest.

Wherefore the Petitioner prays the Authority to grant its Petition to Intervene and convene a contested case, and grant such other relief as may be appropriate.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "Paul G. Summers", is written over a horizontal line.

PAUL G. SUMMERS, B.P.R. #6285
Attorney General
State of Tennessee

Vance L. Broemel

VANCE L. BROEMEL, B.P.R. #01142

Assistant Attorney General

Office of the Attorney General

Consumer Advocate and Protection Division

P.O. Box 20207

Nashville, Tennessee 37202

(615) 741-8733

Dated: April 21st, 2003

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via hand delivery or facsimile on April 21, 2003

Sara Kyle, Esq.
Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Richard Collier, Esq.
General Counsel
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505
(615) 741-5015

For Chattanooga Gas:

Larry Buie, General Manager
Chattanooga Gas Company
2207 Olan Mills Drive
Chattanooga, TN 37421
(423) 490-4300

Archie Hickerson
Manager-Rates
AGL Resources
Location 1686
P.O. Box 4569
Atlanta, GA 30302-4569
(404) 584-3855

D. Billye Sanders
Waller, Lansden, Dortch & Davis, PLLC
511 Union Street, Suite 2100
Nashville, TN 37219-1760
(615) 244-6380

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. G-9, SUB 453

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Piedmont Natural Gas	)	ORDER ON REQUEST
Company, Inc., for Approval of Special	)	FOR SPECIAL ACCOUNTING
Accounting Procedures	)	TREATMENT

BY THE COMMISSION: On September 24, 2001, Piedmont Natural Gas Company, Inc. (Piedmont), filed a request for approval of special accounting treatment of certain costs related to uncollectible accounts during last winter. Piedmont states that high gas prices and colder-than-normal weather during November and December 2000 led to significantly higher gas bills than those for the previous winter. Piedmont took steps to mitigate the impact on customers, but still many customers generated substantial past-due balances "as a result of the extended payment arrangements and various Commission rules that limit Piedmont's ability to obtain deposits and to discontinue service for non-payment of gas bills." In Piedmont's last general rate case, Docket No. G-9, Sub 428, decided in October 2000, a total of \$1,722,278 was included in the cost of service for uncollectibles. During the period September 1999 through August 2000, Piedmont's uncollectibles were \$2,233,344, but they increased to \$5,434,621 for the period September 2000 through August 2001. The uncollectible amount of \$5,434,621 for the twelve months ended August 31, 2001, was \$3,662,343 in excess of the amount allowed in rates. By its request in this docket, Piedmont asks for permission to record a \$3,093,564 charge to its all customers' deferred gas cost account. This represents the difference between the net amount of residential accounts written off as of August 31, 2001, and the amount of residential uncollectibles allowed in rates in Piedmont's last rate case. Any subsequent collections of these written-off accounts will be recorded in the deferred account as offsets against the \$3,093,564 charge. Piedmont proposes that the uncollectibles be assigned to residential rate schedules in a later proceeding, such as the next annual gas cost prudence review.

The Chair issued an Order on October 10, 2001, requesting comments. The Commission has received comments from the Public Staff, the Attorney General, the Carolina Utility Customers Association, Inc. (CUCA), North Carolina Natural Gas Corporation (NCNG), and Public Service Company of North Carolina, Inc. (PSNC).

The Public Staff "does not oppose" the request as long as it is given no precedential effect. The Public Staff generally disfavors special accounting treatment but agrees that some form of relief is appropriate here since the Commission encouraged the LDCs to implement procedures to help residential customers pay their high gas bills last winter.

The Attorney General opposes the request as contrary to existing statutes and case law. The Attorney General says that "gas costs" recoverable under the gas cost adjustment statute, G.S. 62-133.4, do not include uncollectibles and, further, that Piedmont's proposal would amount to improper prospective ratemaking. The Attorney General says that it is not surprising that uncollectibles increased last winter since gas

rates were much higher and the weather was colder than normal. The Attorney General argues that customers bore the brunt of high gas rates last winter and that Piedmont's request would increase that burden even more.

CUCA argues that there are only three ways to modify rates (a rate case, a gas cost adjustment, and a rulemaking) and that neither applies here. Piedmont is not proposing a rate case, and a rulemaking would not be appropriate due to the differences among the LDCs. A gas cost adjustment is not appropriate since uncollectibles "are clearly not costs 'related to the purchase and transportation of natural gas. . .'" Although Piedmont proposes recovery exclusively from residential customers, CUCA opposes any expansion of the gas cost adjustment statute. Further, CUCA argues that Piedmont should be required to show that the flexible payment measures encouraged by the Commission last winter actually caused an increase in uncollectibles before any recovery is allowed.

NCNG supports Piedmont's request and states that it will file a similar request. PSNC supports Piedmont's request as "a balanced approach to the recovery of associated write-offs," but PSNC does not anticipate seeking similar relief.

On October 24, 2001, Piedmont filed reply comments amending its request. In order to address the objections of the Attorney General and CUCA, Piedmont reduces its request for special accounting treatment from \$3,093,564 to \$2,820,028. Piedmont argues that, with this reduction, all of the amount that it now seeks to recover represents gas costs under the gas cost adjustment statute, G.S. 62-133.4.

The Attorney General filed reply comments. Among other points, the Attorney General argues that Piedmont has not shown that the increase in uncollectibles was attributable to the flexible payment measures encouraged by the Commission, that it is unfair to examine one component of rates without examining changes in other components as well, and that Piedmont's request would reverse and return to Piedmont some of the benefits that customers received through the Weather Normalization Adjustment last winter.

CUCA filed reply comments arguing that no special accounting is necessary if the amount Piedmont now seeks to recover is indeed gas costs recoverable under G.S. 62-133.4. The fact that Piedmont is seeking special accounting demonstrates that uncollectibles have never been treated as gas costs under the gas cost adjustment statute.

Piedmont made one last filing, arguing that it just wants to defer these costs now and to litigate recovery in the next gas cost prudence review, where it will bear the burden of proof and all parties will have an opportunity to be heard. Piedmont also argues that the WNA "simply has nothing whatsoever to do with this proceeding."

The Commission has considered all of the comments herein, and carefully weighed the equities as well as the law. The Commission concludes that the request for special accounting treatment should be denied. Piedmont's original petition essentially made an appeal based on equity: gas prices were high, the weather was cold, and uncollectibles went up. There are, however, serious legal obstacles to the special accounting treatment requested by Piedmont, the most fundamental of which is that the proposal focuses solely on one component of rates, without looking at changes in the utility's other expenses and revenues over the same period and without compliance with the general statutory

provisions of G.S. 62-133 as construed in State ex rel. Utilities Commission v. Edmisten, 291 N.C. 451 (1977). In response to the legal objections raised by the Attorney General and CUCA, Piedmont then amended its request. By its reply comments, Piedmont tried to bring its request within the scope of G.S. 62-133.4 by arguing that it is only trying to recover gas costs, but this argument serves to create new obstacles. If Piedmont is indeed seeking to recover gas costs under G.S. 62-133.4, no special accounting treatment is needed. Annual gas cost review proceedings are held to true-up gas costs. The fact that Piedmont is seeking special accounting treatment reflects the fact that uncollectibles have never been regarded as gas costs during the 10 years that the Commission has been holding annual gas cost review proceedings under G.S. 62-133.4. If Piedmont wants to argue that uncollectibles should be " " " " " " " " " " as a part of the prudence reviews, it is of course free to present that argument. Most of the dollars at issue here were charged off in the summer of 2001, which is in the test period for Piedmont's next prudence review.

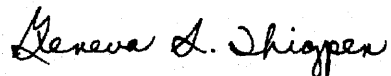
The Commission recognizes that Piedmont and other LDCs were more flexible with their collection policies last winter. This flexibility was a commendable response of good corporate citizens to the emergency situation presented by unprecedented gas prices and by the heightened customer demand for the commodity due to the cold weather. It was good citizenship and good business policy to try to keep customers on the system. This flexibility was laudable -- and the Commission again expresses its appreciation -- but this flexibility does not support extraordinary rate relief not permitted by statute. We note that Piedmont's request did not focus on the amount by which their additional flexibility might have contributed to the level of recent uncollectibles. Piedmont's compliance with the Commission's request that the LDCs attempt to avoid ratepayer harm may have even reduced the amount of uncollectibles which the Company would otherwise have experienced last winter. Unfortunately, uncollectibles naturally go up when bills go up, and this is one risk from which the LDCs cannot be insulated.

IT IS, THEREFORE, ORDERED that the request for special accounting treatment filed by Piedmont on September 24, 2001, should be, and the same hereby is, denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of November, 2001.

NORTH CAROLINA UTILITIES COMMISSION



Geneva S. Thigpen, Chief Clerk

OFFICIAL COPY

LAW OFFICES

NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP

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COLUMBIA, SOUTH CAROLINA
GREENVILLE, SOUTH CAROLINA
MYRTLE BEACH, SOUTH CAROLINA

MUNICH, GERMANY

October 26, 2001

Via FedEx

Geneva Thigpen
Chief Clerk
North Carolina Utilities Commission
430 North Salisbury Street
Raleigh, North Carolina 27603

FILED

OCT 29 2001

Clerk's Office
N.C. Utilities Commission

Re: Docket No. G-9, Sub 453

Dear Ms. Thigpen:

In reference to the above-captioned docket, I am enclosing for filing the original and 32 copies of the Motion and Response of Piedmont Natural Gas Company to Reply Comments of the Attorney General. I am also enclosing one additional copy of the above referenced document that I would appreciate your stamping "filed" and returning in the enclosed envelope. *JP*

Subsequent to the preparation of the enclosed response to the Attorney General, Piedmont learned that CUCA filed a letter on October 25, 2001 for the stated purpose of responding to Piedmont's "settlement offer." Although CUCA objects to Piedmont's proposed accounting treatment, it offers no evidence or arguments to show that the denial of Piedmont's request would not deny Piedmont the right to recover its prudently incurred gas costs. Instead, CUCA argues that, if Piedmont's position is correct, Piedmont can recover its gas costs under Rule R1-17(k) without the need for any special accounting treatment. CUCA's argument misses the mark. Piedmont is requesting the special accounting treatment to permit it to defer the costs now and to account for them accordingly. Any recovery of these costs will be pursuant to Rule R1-17(k). CUCA also states that despite Piedmont's agreement that the Commission's ruling would not constitute precedent in future cases, Piedmont may argue that the Commission would act in an arbitrary manner if it did not grant similar relief in the future. There are at least two flaws with this argument. In the first place, having agreed that the decision in this docket would not create precedent, Piedmont would be estopped from making the argument suggested by the CUCA. Furthermore, it is highly unlikely that the events that resulted in the request for special accounting treatment in this proceeding will ever be repeated. In any event, Piedmont has not

AG
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Hoover
Sessions
Stallings
Lile
Hilmore
Brubaker
Legal-3
Accts-3
Ec/Res-2
Gas-3
Kilby

October 26, 2001

Page 2

requested any change in the rates for CUCA members either now or at some later date with respect to the amounts at issue in this docket, and CUCA simply has no grounds for objecting.

Very truly yours,

Jerry W. Amos
by bao

Jerry W. Amos

JWA:bao
Enclosures

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	MOTION AND RESPONSE
Application of Piedmont Natural Gas Company,	)	OF PIEDMONT NATURAL
Inc. for Approval of Special Accounting	)	GAS COMPANY TO
Procedures.	)	REPLY COMMENTS OF
	)	THE ATTORNEY GENERAL

Piedmont Natural Gas Company, Inc. ("Piedmont") hereby respectfully requests the Commission to grant it leave to file the Response to the Attorney General's so-called "Reply Comments" contained herein, and, in support thereof, shows unto the Commission the following,

1. On October 24, 2001, the Attorney General filed a document entitled "Attorney General's Reply comments." Despite the title of that document, the Attorney General does not reply to anyone's comments. Instead, the Attorney General renews the legal arguments presented in its original comments and adds a new argument that this matter must be set for trial or hearing.

2. Piedmont believes the Commission would be justified in ignoring the Attorney General's so-called reply comments since they do not reply to anything. Nevertheless, if the Commission does elect to consider the so-called reply comments, Piedmont respectfully requests the Commission to grant this motion and to also consider the following:

A. Piedmont has already responded to the Attorney General's legal arguments by showing that Piedmont is seeking only to recover gas costs as permitted by G.S. 62-133.4 and by Commission Rule R1-17(k)(2). Piedmont will not repeat those arguments here.

B. With respect to the Attorney General's new argument that a hearing must be held to determine certain factual information about the amount that Piedmont should be permitted to recover, it appears that the Attorney General does not understand Piedmont's proposal. In this docket, Piedmont is simply

asking that it be permitted to record a specified amount of unrecovered gas costs in its deferred account to be recovered at a later date. Piedmont will not actually recover any of those amounts until it is authorized to do so under the procedures set forth in the Commission's Rule R1-17(k). As a result, the amount to be recovered by Piedmont will be determined by the Commission in the Commission's next annual review of Piedmont's gas costs deferred accounts. That annual review will be subject to notice and a public hearing. Thus, the Attorney General will receive the notice and public hearing that it desires.

C. In its latest filing, the Attorney General contends that Piedmont has the burden to establish the "validity of the charge and the reasonableness of the amount." Piedmont recognizes its burden of proof, and it intends to carry that burden in its next annual gas costs review proceeding. In addition, any amounts placed in the gas costs deferred accounts will be subject to review by the Public Staff and by any other party, including the Attorney General if it should choose to intervene in that proceeding, who wishes to do so.

D. The Attorney General also contends that "the numbers Piedmont has provided bear detailed scrutiny." The only relevant numbers are the amount of gas costs that are actually paid by Piedmont and the amount of those gas costs that Piedmont recovers either through its base rates (including any amounts recovered through its allowed uncollectible expense) or through the gas cost recovery mechanism provided for in Commission Rule R1-17(k). All of these numbers will be subject to scrutiny in Piedmont's next annual review.

E. The Attorney General also contends that the Commission cannot examine a change to one component of rates without also examining the changes to other rate components. On this point, the Attorney General is simply incorrect. The only amounts at issue in this case are gas costs. G.S. 62-133.4 and Commission Rule R1-17(k) specifically authorize the Commission to consider gas costs separately from all other costs, and, of course, the Commission has done so many times in the past.

F. Finally, the Attorney General tries to tie Piedmont's request in this proceeding to Piedmont's Weather Normalization Adjustment (WNA). Although Piedmont does not understand the Attorney General's WNA argument, it should be noted that during the period in question in this docket, the WNA lowered rates. Thus, if it were not for the WNA, Piedmont's uncollectibles would have been higher. In any event, Piedmont is not seeking to recover any of the margin that may otherwise be collected or refunded through the WNA. Piedmont is seeking only to recover its gas costs; therefore, the WNA simply has nothing whatsoever to do with this proceeding.

3. For the reasons set forth above, the Attorney General has provided no legal basis for rejecting Piedmont's requests. Also, for the reasons set forth above, the Attorney General can present its various factual arguments in Piedmont's next annual gas cost review proceeding when Piedmont seeks to collect from its customers any amounts deferred in this proceeding.

WHEREFORE, Piedmont respectfully requests that the Commission grant Piedmont's motion to file the response to the Attorney General's so-called reply comments and reject the Attorney General's arguments for the reasons set forth above.

Respectfully submitted, this the 26th day of October, 2001.

Piedmont Natural Gas Company, Inc.

By: Jerry W. Amos *per* lylao
Jerry W. Amos, Esq.

Nelson, Mullins, Riley & Scarborough
Bank of America Corporate Center, Suite 3350
100 North Tryon Street
Charlotte, NC 28202-4021
(704) 417-3000
Telefax: 704-377-4814
E-mail: jwa@nmrs.com

Certificate of Service

I hereby certify that I have this day served a copy of the foregoing document upon each party of record and/or its counsel by depositing the same in the United States Mail, postage prepaid to their last known address.

This the 26th day of October, 2001.

Gerry W. Amos by baa
Jerry W. Amos

OFFICIAL COPY

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Telephone (919) 856-8800
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October 25, 2001

FILED

OCT 25 2001

Clerk's Office
N.C. Utilities Commission

Via Hand Delivery

Geneva Thigpen, Chief Clerk
North Carolina Utilities Commission
Dobbs Building
Raleigh, NC 27603

Re: Docket No. G-9, Sub 453

Dear Ms. Thigpen:

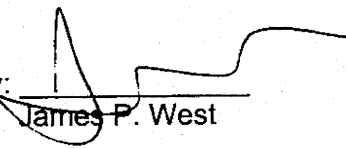
1-Sirby ✓
This letter responds to Piedmont's "settlement offer" to recover \$2.82 million, which Piedmont alleges is the amount "Piedmont paid for its gas costs but did not collect from its customers." According to Piedmont, denial of the recovery of \$2.82 million would deny recovery of Piedmont's prudently incurred gas costs. If, as Piedmont contends, \$2.82 million represents prudently incurred gas costs recoverable under Rule R1-17(k)(1), then Piedmont's Application should be dismissed because no special accounting procedures or other forms of relief would be necessary for Piedmont to recover its prudently incurred gas costs.

The very fact that Piedmont is continuing to insist upon special relief through the adoption of new accounting procedures should confirm to the Commission that uncollectible accounts have not in the past been treated as gas costs recoverable under G.S. 62-133.4. A change in past practices will invariably open the floodgates to other LDCs seeking to expand the definition of gas costs. The proposal to include language in an order stating that the order does not constitute a precedent will not stop LDCs from arguing that the Commission must be consistent in its rulings to avoid acting in an arbitrary and capricious manner.

AG
7/10/01
Bennett
Hoover
Sessions
Stallings
Kila
Salmon
Brubaker
Legal-3
Accts-3
Ec/Reg-2
Gas-3
An original and 30 copies of this letter are submitted for filing. Kindly date-stamp and return to me via courier the copy of this letter. Please do not hesitate to telephone me with any questions concerning this matter.

Sincerely,

West Law Offices, P.C.

By: 
James P. West

cc: All Parties

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MUNICH, GERMANY

October 22, 2001

FILED

OCT 24 2001

Clerk's Office
N.C. Utilities Commission

Via FedEx

Geneva S. Thigpen
Chief Clerk
North Carolina Utilities Commission
430 North Salisbury Street
Raleigh, North Carolina 27603

Re: Docket No. G-9, Sub 453

Dear Ms. Thigpen:

Pursuant to the Commission Order Requesting Comments issued October 10, 2001, I am enclosing for filing in the above-captioned docket the original and 32 copies of the Reply Comments of Piedmont Natural Gas Company. I am also enclosing one additional copy of the above referenced document that I would appreciate your stamping "filed" and returning in the enclosed envelope.

Sincerely,


Jerry W. Amos

AG
Norm
Bennett
Riley
Hoover
Seaborn
Kite
Stallins
Gibson
Duke
Legal 3
Accts. 3
Cell Res. 2
Gov. 3

JWA:bao
Enclosures

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DOCKET NO. G-9, Sub 453

OCT 24 2001

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Clerk's Office
N.C. Utilities Commission

In the Matter of	)	REPLY COMMENTS
Application of Piedmont Natural Gas Company,	)	OF
Inc. for Approval of Special Accounting	)	PIEDMONT NATURAL GAS
Procedures.	)	COMPANY

Pursuant to the Order Requesting Comments issued October 10, 2001, Piedmont Natural Gas Company, Inc. ("Piedmont"), hereby respectfully submits its Reply Comments.

1. Piedmont has received initial comments from the Public Staff, North Carolina Natural Gas Corporation ("NCNG, the Carolina Utilities Customer Association ("CUCA") and the Attorney General. The Public Service Company of North Carolina ("PSNC") intervened in support, but did not file comments.

2. The Public Staff recommended that the Commission issue an order approving Piedmont's application, expressly stating that such approval may not be cited as precedent in any future cases. Piedmont agrees with the Public Staff's recommendation. NCNG and PSNC also filed in support of Piedmont's application.

3. It is not clear to Piedmont what CUCA is advocating in its comments.¹ Since Piedmont does not propose to collect any additional revenues from any member of CUCA, it does not appear that CUCA will be affected by the outcome of this case. Furthermore, as stated in paragraph 2 above, the Public Staff has recommended, and Piedmont has agreed, that any decision in this case cannot be cited as precedent in any future cases; therefore, the outcome of this case cannot affect a subsequent case in which CUCA might be affected in some way. Assuming that CUCA intends its comments to be

¹ It appears that the heart of CUCA's comments can be found in paragraph 4 of its comments where it states the following: "While CUCA may not be opposed to Piedmont's recovery of its net uncollectible balance exclusively from Piedmont's residential customers, CUCA is resolutely opposed to the expansion of the gas cost adjustment mechanism to accommodate Piedmont's goals." As pointed out in the text, Piedmont has proposed to collect its net uncollectible balance exclusively from its residential customers. As pointed out in paragraphs 4 and 5 of Piedmont's comments, Piedmont is not proposing to expand the gas cost adjustment mechanism to collect anything other than "gas costs."

in the nature of an *amicus curiae* filing to address the applicable law, CUCA raises the same issues raised by the Attorney General. These legal arguments are addressed in the following paragraph.

4. Both the Attorney General and the CUCA contend that Piedmont's request is not supportable under existing law because the costs that Piedmont seeks to recover are not included in the definition of "gas costs" under Commission Rule R1-17(k)(2)(a) and, therefore, cannot be recovered under G.S. §62-133.4.²

5. As a compromise to meet the concerns of the Attorney General (and, to the extent applicable, the CUCA), Piedmont proposes to reduce its request from \$3,093,564 to \$2,820,028. As a result of this reduction, 100% of the amount Piedmont now seeks to recover represents amounts that Piedmont paid for its gas costs but did not collect from its customers in its Commission-approved rates. (See the Affidavit of Bill R. Morris attached as Exhibit A.)

6. Commission Rule R1-17(k)(1) states that the "intent of these rules is to permit LDCs to recover 100% of their prudently incurred gas costs applicable to North Carolina operations." If Piedmont is not permitted to recover the \$2,820,028 it now seeks in this docket, Piedmont would not be permitted to recover 100% of its prudently incurred gas costs as permitted by G.S. §62-133.4 and Commission Rule R1-17(k)(2)(a)

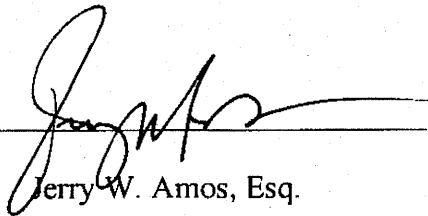
7. Since 100% of the amount that Piedmont now seeks to recover consists of gas costs within the meaning of G.S. §62-133.4, and G.S. §62-133.4 specifically permits the recovery of gas costs in the manner sought herein, the Attorney General's retroactive ratemaking argument and, to the extent applicable, the similar legal arguments put forth by the CUCA, are rendered moot.

WHEREFORE, Piedmont respectfully requests the Commission to approve the recovery of \$2,820,028 in the manner set forth in Piedmont's petition.

² The Attorney General also contends that Piedmont's request, if not permitted by G.S. §62-133.4 would be retroactive ratemaking. CUCA also contends that Piedmont's request cannot be permitted unless it is filed as a general rate case or as a rulemaking proceeding. Since we will show that Piedmont's request, as amended herein, is permitted by G.S. §62-133.4, the Attorney General's retroactive ratemaking argument and CUCA's general rate case and rulemaking proceedings are rendered moot.

Respectfully submitted, this the 23rd day of October, 2001.

Piedmont Natural Gas Company, Inc.

By: 
Jerry W. Amos, Esq.

Nelson, Mullins, Riley & Scarborough
Bank of America Corporate Center, Suite 3350
100 North Tryon Street
Charlotte, NC 28202-4021
(704) 417-3000
Telefax: 704-377-4814
E-mail: jwa@nmrs.com

AFFIDAVIT OF BILL R. MORRIS

North Carolina
Mecklenburg County

I Bill R. Morris, being first duly sworn, do hereby affirm that the following information is true and correct:

1. In Piedmont Natural Gas Company's ("Piedmont") last general rate case in Docket No. G-9, Sub 428, Piedmont was allowed an uncollectible expense of \$1,772,278, including \$1,028,073 of gas costs.

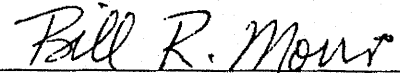
2. For the 12-month period ended August 31, 2001, Piedmont's actual uncollectible expense was \$5,434,621, including \$3,848,101 of gas costs.

3. As a result of the increase in its actual uncollectible expense, Piedmont failed to recover \$2,820,028 (\$3,848,101 - \$1,028,073) of its gas costs during the 12-month period ended August 31, 2001.

4. The cost of gas portion of any collections of amounts recorded in the appropriate deferred account as requested in this docket will be recorded in the appropriate deferred account as an offset against the \$2,820,028.

5. The method of recovery proposed in Piedmont Petition in this docket, as amended by Piedmont's Reply Comments, will permit Piedmont to recover 100% of its "gas costs" within the meaning of Commission Rule R1-17(k)(2)(a).

This the 23rd day of October, 2001.



Bill R. Morris

Subscribed and sworn before me this
the 23 day of October 2001.

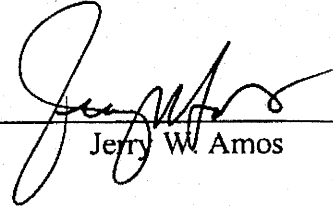


My Commission expires MY COMMISSION EXPIRES 10-29-05

Certificate of Service

I hereby certify that I have this day served a copy of the foregoing document upon each party of record and/or its counsel by depositing the same in the United States Mail, postage prepaid to their last known address.

This the 23rd day of October, 2001.



Jerry W Amos

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

OFFICIAL COPY

DOCKET NO. G-9, Sub 453

OCT 2 - 2001

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

FILED
N.C. UTILITIES COMMISSION

1 Kirby ✓
1 Stallings ✓

7 Comm ✓
Bennett ✓

Horton
Serrano

Kato
Bennett

61. Dir.
3 Legal

3. Accs
2. EC/Reg.

3. Bad

In the Matter of)
)
Application of Piedmont Natural Gas)
Company, Inc., for Approval of Special)
Accounting Procedures)
)
ATTORNEY GENERAL'S
REPLY COMMENTS

These reply comments are filed concerning a proposal by Piedmont Natural Gas Company, Inc. (Piedmont) for special accounting treatment of certain costs related to uncollectible accounts. For the reasons discussed in the Attorney General's initial comments, the request for special accounting should be denied because there is not a legal basis for the rate adjustment sought. An increase in future residential customer rates should not be allowed to pay for uncollectibles experienced in prior periods, and therefore the proposal to put uncollectibles into a deferred account for that purpose should be rejected. Moreover, if the Commission determines that a legal basis exists for the request, the matter should not be decided without public notice, investigation, and an evidentiary hearing to consider the validity of the increase ultimately being sought. Piedmont has not provided adequate information to support its request, and a number of concerns arise from the limited information available thus far.

By casting the request as a charge that would be deferred and later included in its cost of gas, Piedmont apparently seeks recovery of the charge without notice, investigation, and hearing about the validity of the amount requested. G.S. § 62-133.4 allows rate changes occasioned by the cost of natural gas supply and transportation under abbreviated procedures, but the costs involved in Piedmont's request do not "track changes in the cost of natural gas supply and transportation." See G.S. § 62-134(b) and related gas cost information identified in G.S. § 62-134(c); see also Rule R1-17(k)(2)(b).

This matter is one that must be set for trial or hearing. Pursuant to G.S. § 62-81, all cases or proceedings shall be tried or heard and decided in accordance with the ratemaking procedure set forth in G.S. § 62-133, whether or not the case is declared to be a general rate case, if the proceeding will substantially affect any utility's overall level of earnings or rate of return. Piedmont has argued it needs the relief sought in this proceeding or it will "report earnings substantially less than contemplated by Piedmont's last rate case, making it difficult for Piedmont to raise the necessary capital to expand and maintain it [sic] natural gas distribution system in the manner contemplated by Piedmont and the Commission in Piedmont's last rate case." Therefore, Piedmont appears to concede that the adjustment ultimately sought here would have a substantial impact on its earnings.

The burden of proof is on Piedmont to establish the validity of the charge and the reasonableness of the amount. G.S. § 62-75. That burden has not been met. Further, a number of problems can be discerned from the limited information Piedmont has provided thus far.

First, Piedmont contends that special accounting should be allowed because some of the increased uncollectibles are attributable to changes in collection practices or other extraordinary efforts taken at the behest of the Commission. Piedmont has not made any attempt to quantify the impact of the Commission's efforts and should be required to demonstrate support for this contention. Indeed, the Commission's influence could have had the opposite effect. For example, some customers may have paid bills that would have gone unpaid had Piedmont declined to offer longer payment options and more flexible equal payment plans. Piedmont needs to provide evidence to support this contention.

Second, the numbers Piedmont has provided bear detailed scrutiny. For example, Piedmont contends the actual uncollectibles in fiscal year ending (FYE) 8/31/01 substantially exceeded the amount allowed in rates, and seeks a charge for the difference. See Attachment A for details. Piedmont asserts that the amount allowed in rates should be calculated by multiplying an uncollectible percentage by the pro forma revenues from the sale and transportation of gas. The use in the rate case of a percentage factor for uncollectibles based on revenues indicates uncollectibles were expected to vary with increases and decreases in revenues. Thus it may be more appropriate to measure the amount of uncollectibles allowed in the rate case by applying the same uncollectibles percentage to the amount of revenues actually experienced in FYE 8/31/01. This Piedmont has not done. It is likely the calculation would produce a larger number when actual revenues are used, given the increase in volumes and rates during FYE 8/31/01.

Piedmont's basis for calculating the amount of excess uncollectibles in FYE 8/31/01 is also questionable when it is compared to the actual uncollectibles experienced in FYE 8/31/00. According to information in Piedmont's Petition, the actual amount of uncollectibles in the period ending 8/31/00 were 26% higher than the amount Piedmont would use to determine the excess here. Piedmont has alleged the amount of uncollectibles in FYE 8/31/00 was excessive. See Attachment A for details.

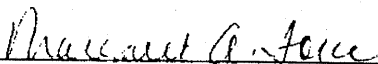
Third, Piedmont asks the Commission to examine a change to one component of rates without also examining the changes to other rate components. The validity of such a limited review is questionable, especially when the rate case components were identified in a settlement. It is unlikely that particular rate components were given the level of scrutiny in the settlement that they would have received had they been determined by the Commission in a litigated proceeding. Furthermore, while the increases in uncollectibles may have been large, Piedmont also experienced at least one large change in revenues that was favorable to its shareholders. According to the evidence in Piedmont's recent annual review proceeding in Docket No. G-9, Sub 451, Piedmont made substantially more money on secondary market transactions during the review period. Piedmont sells capacity and gas in secondary markets at off peak times, credits

75% of the net revenues to consumers, and keeps 25% for shareholders, as a bonus incentive. During the annual review period, the secondary market transactions earned a net total of \$14,261,126, up from \$9,316,878 in the prior year. Piedmont's shareholders were credited \$3,565,281 of the amount, up from \$2,329,220 the year before. Thus, while Piedmont faced increased uncollectibles, its shareholders received at least some offsetting benefits during the period.

Finally, in reviewing Piedmont's proposal, the Commission should take into consideration the history of Piedmont's weather normalization adjustment (WNA). Under the WNA, Piedmont adjusts residential customers' bills each month to reflect the difference between normal and actual weather. The adjustment is intended to allow normalized recovery of non-gas costs -- including the cost of uncollectibles -- regardless of weather conditions. For years, consumers have complained that they are required to pay more under the WNA when they consume less gas. Now, in a year when customers consumed more gas due to colder weather in November and December, the adjustment worked to their advantage.¹ If Piedmont's request is granted, some of the benefit customers received through credits for the WNA will be returned to Piedmont. Piedmont concedes that at least part of the increase in uncollectibles is the result of colder-than-normal weather experienced during the period. Piedmont should provide more justification for its argument that cold weather is a reason why this special accounting should be allowed.

For these reasons and those discussed in his initial comments, the Attorney General does not support an increase in residential customer rates to pay for uncollectibles, and opposes the proposal to put uncollectibles into a deferred account for that purpose. At a minimum, the Attorney General urges the Commission to require notice, investigation, and hearing before allowing the request for special accounting.

These comments are respectfully submitted this the 24th day of October, 2001.


Margaret A. Force
Assistant Attorney General
N.C. Department of Justice
Post Office Box 629
Raleigh, NC 27602
Telephone: (919) 716-6055

¹ According to data compiled by the Public Staff, Piedmont's heat sensitive customers have paid a total of \$32 million in additional charges on their winter bills through the WNA since November 1991, net of credits received. Customers received a net credit of \$4.6 million last winter, only the second time in nine years that the WNA worked in their favor.

CERTIFICATE OF SERVICE

The undersigned certifies that she has served a copy of the foregoing Attorney General's Reply Comments upon the parties of record in this proceeding by hand delivery or by depositing a copy of the same in the United States Mail, postage prepaid, this the 24th day of October, 2001.

Margaret A. Force
Margaret A. Force
Assistant Attorney General

ATTACHMENT A

Piedmont's Calculations

Piedmont wants to record \$3,093,564 to its deferred account, with adjustments for amounts recovered later. Piedmont reports the uncollectible residential accounts were \$4,600,000 for fiscal year ending (FYE) 8/31/01. That is approximately 85% of the total uncollectible accounts, which were \$5,434,621.

$$[\$4,600,000 / \$5,434,621 = 85\%]$$

In the last rate case, Piedmont says it's rates were fixed using \$1,772,278 as the total expense for uncollectible accounts for the year. It calculates that 85% of the total allowed would be allocated to residential, or \$1,506,436.

$$[\$1,772,278 \times 85\% = 1,506,436]$$

The increase in uncollectibles it seeks to recover is the difference between actual uncollectible residential accounts and the amount used to fix rates: \$3,093,564

$$[\$4,600,000 - \$1,506,436 = \$3,093,564]$$

The \$1,772,278 figure Piedmont uses for the amount allowed in the rate case was calculated by multiplying the uncollectible percentage [.004102] by the amount of pro forma revenues from the Sale and Transportation of Gas [\$432,052,223].

$$[.004102 \times \$432,052,223 = \$1,772,278]$$

The fact that uncollectibles were calculated in the rate case based on a percentage of revenues indicates the amount of uncollectible accounts could be expected to increase with revenues. Piedmont has not said what the uncollectible amount would be if the percentage used in the rate case were multiplied by the actual revenues from sale and transportation of gas in FYE 8/31/01.

Further, according to Piedmont, the *actual* uncollectible accounts for all consumers in the FYE 8/31/00 were \$2,233,344, and Piedmont has not alleged that that amount of uncollectibles was excessive. Actual uncollectibles experienced in FYE 8/31/00 were 26% higher than the number Piedmont would use here to establish excess uncollectibles.

$$[\$2,233,344 / \$1,772,278 = 26\% \text{ increase}]$$